

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JONATHAN RICHARD LORD	:	CIVIL ACTION
	:	
v.	:	
	:	
DOCTOR FILIPE ARIES, et al.	:	No. 06-01822-JF

MEMORANDUM AND ORDER

Fullam, Sr. J.

May 15, 2006

By Memorandum and Order dated May 2, 2006, the plaintiff was informed that, if he wished to proceed with this case, he would have to agree to pay the \$350 filing fee (in installments, to be deducted from his prison earnings, which are stated to be \$18.50 per month). As a result of that Order, plaintiff has now advised the court that he does wish to proceed with the litigation.

The May 2 Order was entered without adequate consideration of the allegations of plaintiff's *pro se* complaint. In fairness to the plaintiff, I believe that, before ordering payment of the \$350 filing fee in installments, plaintiff should be made aware that, on the basis of what is stated in his complaint, this action would inevitably be dismissed as legally frivolous.

In order to recover in this lawsuit, plaintiff would need to prove that he was denied medical care, for a serious condition. According to the allegations of plaintiff's complaint, he was seen by physicians on several occasions, and

was assured of his continued good health. The most that can be said is that one of the doctors may have failed to notice a cyst on the back of plaintiff's head, but there is no suggestion that this presents a serious problem. In any event, it is clear that the defendants have not ignored plaintiff's complaints.

In short, the only benefit plaintiff might achieve by paying the \$350 filing fee would be the right to appeal to the Third Circuit Court of Appeals this court's dismissal of his complaint. Plaintiff will therefore be afforded a further opportunity to reach a final decision as to whether he wishes to proceed. An Order to that effect follows.

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ORDER

AND NOW, this 15th day of May 2006, IT IS ORDERED:

That the plaintiff, Jonathan Richard Lord, shall notify this court, within 30 days, whether he wishes to proceed with this action in spite of what is stated in the accompanying Memorandum.

BY THE COURT:

/s/ John P. Fullam
John P. Fullam, Sr. J.